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Minneapolis Community Development Agency

Request for City Council Action

Date: July 15, 2002

To: Council Member Lisa Goodman, Community Development Committee
Council Member Barbara Johnson, Ways and Means/Budget Committee
Refer to: MCDA Board of Commissioners

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Approved by: Chuck Lutz, MCDA Interim Executive Director ______________
John Moir, City Coordinator ____________________
Patrick Born, City Finance Officer __________________

Subject: Approval of Amendment to Minneapolis Tax Increment Policy

Previous Directives: The current Minneapolis Tax Increment Policy was approved by the City Council and the MCDA Board of Commissioners on October 13, 2000, and was revised on March 22, 2002.

Ward: Citywide.

Neighborhood Group Notification: On June 11, 2002, neighborhood groups were notified of the MCDA's intent to seek approval of the amendment to the Tax Increment Policy.

Consistency with *Building a City That Works:* Consistent with Goal 6, Manage existing financial resources effectively and identify new sources of revenue to carry out our mission.

Comprehensive Plan Compliance: Not applicable.

Zoning Code Compliance: Not applicable.

Impact on MCDA Budget: (Check those that apply)

_X_ No financial impact
___ Action requires an appropriation increase to the MCDA Budget
___ Action provides increased revenue for appropriation increase
___ Action requires use of contingency or reserves
___ Other financial impact (Explain):

Living Wage / Business Subsidy: Not applicable.

Job Linkage: Not applicable.

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Affirmative Action Compliance: Not applicable.

RECOMMENDATION:
City Council Recommendation: The MCDA Interim Executive Director, the City Coordinator and the City Finance Officer recommend that the City Council approve the amendment to the Minneapolis Tax Increment Policy dated July 15, 2002, and refer it to the MCDA Board of Commissioners for approval.

MCDA Board Recommendation: The MCDA Interim Executive Director recommends that the Board of Commissioners approve the amendment to the Minneapolis Tax Increment Policy dated July 15, 2002.

Background/Supporting Information

Minneapolis has had a formal policy to guide the use of tax increment financing since 1982. The Minneapolis Tax Increment Policy describes the conditions under which the financing tool is to be used and the criteria by which applications for the use of tax increment financing are to be evaluated. In October 2000, a provision for collecting application fees from developers requesting the use of tax increment financing was added to the policy.

On March 22, 2002, the MCDA Board of Commissioners approved a new Public Financial Assistance Fee Policy that expanded the practice of collecting developer fees to include requests for tax abatement and Leveraged Investment Fund loans. The Fee Policy was enacted to enable the MCDA to recover public costs associated with review and analysis of development proposals. At the same time, the Tax Increment Policy was amended to make it consistent with the new Fee Policy.

Since March, the MCDA Interim Executive Director, the City Coordinator and the City Finance Officer have met in a series of sessions to formulate recommendations for improving the development process in the areas of resource management, risk assessment and decision making. The results of this collaborative effort include recommendations for amending the Tax Increment Policy and related procedures.

Amendments to the Minneapolis Tax Increment Policy

Staff discussions of tax increment policy and procedures were mindful of the need to provide policymakers with clear and objective information that outlines the immediate and long-term consequences of development decisions and that aids in evaluating the policy and financial benefits received from the investment of public funds. Discussion points and the resulting recommendations regarding amendments to the Tax Increment Policy are listed below. The attached copy of the Tax Increment Policy (Attachment A) reflects these policy changes. Additional minor edits have also been made. All changes are shown in the attached Policy.

1. To the extent possible, those general City financial resources not primarily intended for development purposes should be isolated from risks associated with development projects.

   Recommended amendment to the Tax Increment Policy:

   III. General Guidelines in the Use of Tax Increment Financing

   C. ~~Tax increment financing will only be used in cases where the City has the financial capacity to provide the needed public assistance, the Council deems it fiscally prudent to provide such assistance and the developer can clearly demonstrate that the development will be able to meet its financial and public purpose commitments~~. The MCDA and the City of Minneapolis find it preferable that projects requiring tax increment assistance not require additional City resources. If such resources are necessary, a comprehensive explanation of the need, amount and risks associated with providing additional City resources will be provided.

2. When it is determined to be financially prudent, unanticipated tax increment revenues ("excess tax increment") will be returned to the various taxing jurisdictions.

   Recommended amendment to the Tax Increment Policy:

   III. General Guidelines in the Use of Tax Increment Financing

   H. As part of the annual budget process, the MCDA will identify tax increment revenues deemed to be excess tax increment and will make related recommendations for decertification of parcels or districts and return of excess tax increment to the taxing jurisdictions, and report on the total value of captured tax capacity expressed in both dollars and as a percentage of total tax capacity.

3. Establishing a "tax increment budget process" that facilitates the City Council's ability to compare and prioritize proposals for the use of tax increment financing (as well as tax abatement and Leveraged Investment Fund loans) may result in enhanced decision-making, even though such an approach will present challenges to staff and to developers. If the City Council elects to implement such a process, an appropriate amendment to the Tax Increment Policy is presented below. To accommodate the flow of the current workload and plan the transition to the new cycle schedule, it is recommended that implementation of this section occur during the fourth quarter of 2002.

IV. Economic Analysis and Risk Assessment Process

B. *Applications for the use of tax increment financing, tax abatement and Leveraged Investment Fund loans will be accepted by the MCDA throughout the year, and the MCDA Board of Commissioners may authorize staff to conduct appropriate analysis of an application at any point thereafter. However, the City Council will consider and approve or reject initial staff recommendations regarding the funding of such proposals on a quarterly basis on predetermined dates, so that development proposals may be more easily compared and evaluated within the context of all proposals received during a quarterly cycle. The results of the staff analysis and staff recommendations will be presented to the City Council in a standard format to facilitate comparison to one another and to proposals received in earlier quarterly cycles.*

The funding of proposals may be considered on other than the predetermined dates when compelling reasons exist. In such cases, the rationale for considering the proposal out-of-cycle must be included in the presentation to the City Council, and the proposal will be presented in the standard format.

4. The format for reporting the results of staff analysis and recommendations regarding development proposals will be standardized.

Recommended amendment to the Tax Increment Policy:

IV. Economic Analysis and Risk Assessment Process

~~B.~~C. The analysis and assessment of all proposed uses of tax increment financing will address the following ~~questions~~ items as part of the standard format for reports to the MCDA Board of Commissioners and the City Council:

- *~~What is the public purpose of the financial assistance to the project?~~*
- *~~Why is there a financial need for public investment and/or subsidy?~~*
- *~~What is the total cost of the project?~~*
- *~~What is the appropriate level of public participation?~~*
- *~~What are the risks associated with the project?~~*
- *~~What are the alternative plans for managing the risk?~~*
- *~~How does the proposed project finance plan compare with previously approved comparable projects?~~*
- *~~What is the project's impact on other publicly financed projects?~~*

1. *Describe how the project meets the "but for" test.*
2. *Identify the development objective(s)/public purpose being served.*
3. *Evaluate the developer's capacity to undertake the project.*
4. *Indicate the total development cost of the project.*
5. *Identify the type and amount of all public assistance required.*
6. *Specify the costs being paid for with public assistance.*
7. *Identify any risks or potential negative impacts to the City or MCDA in providing the required public assistance.*
8. *List method(s) to minimize and manage such risks and impacts.*
9. *Determine the appropriate fiscal disparity election and quantify the impact on the City's general tax base.*
10. *When appropriate, compare the project to other publicly assisted projects.*
11. *Determine if additional analysis of any type is needed.*

Procedures

In the July 15 oral presentation of this report to the Community Development Committee, we will discuss the changes in procedures that will result if the proposed amendment to the Tax Increment Policy is approved.

Public Notice

On June 11, 2002, neighborhood groups were notified of the intent to seek approval of the amendment to the Minneapolis Tax Increment Policy. As of the date of preparation of this report (July 3), no comments have been received from neighborhood groups.

A notice was also mailed to developers and the proposed policy amendment was posted on the MCDA's web site on June 19, 2002. To date, we have received one favorable comment from a developer (MetroPlains).

Comments from MCDA financial analysis staff are summarized in Attachment B.

Comments received after the preparation of this written report will be presented at the July 15 Community Development Committee meeting.

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ATTACHMENT A

DISCUSSION DRAFT – 6-19-02

Minneapolis Tax Increment Policy

I. Purpose of Policy

This Tax Increment Policy has been prepared by the Minneapolis Community Development Agency (MCDA) and the City Finance Department and approved by the MCDA Board of Commissioners and the Minneapolis City Council for the following purposes:

- to guide MCDA staff in forming recommendations regarding the use of tax increment financing and negotiating contract terms with developers;
- to guide City Finance Department staff in reviewing and commenting on the use of tax increment financing;
- to provide a framework within which the City Council and Mayor can evaluate and compare proposed uses of tax increment financing; and
- to inform the public of the MCDA and City's positions on the use of tax increment financing and the process through which decisions regarding the use of the tool are made.

This policy supersedes the Tax Increment Policy approved by the Minneapolis City Council and the MCDA Board of Commissioners on March 22, 2002 and earlier versions of said policy. Section IV.B. of this policy is effective as of October 1, 2002. The remainder of the policy is effective as of August 1, 2002.

A separate document, *Procedure for Analyzing Applications for Tax Increment Financing, Tax Abatement and Leveraged Investment Fund Assistance*, outlines the administrative procedures to be followed in the review, analysis and approval of requests for tax increment financing and certain other types of assistance.

II. Development Objectives

The MCDA and the City of Minneapolis use tax increment financing to accomplish these major objectives:

A. Expand the Minneapolis economy to create more living-wage jobs, with an emphasis on providing job opportunities for the unemployed and underemployed.

B. Attract and expand new and existing services, developments and employers in order to position Minneapolis and the region to compete in the economy of the 21st century.

C. Increase the city's property tax base and maintain its diversity.

D. Clean contaminated land to provide sites for uses that achieve MCDA and city redevelopment objectives.

E. Provide an array of housing choices that meet the needs of current residents and attract new residents to the city, with an emphasis on providing affordable housing.

F. Eliminate blighting influences throughout the city.

G. Support neighborhood retail services, commercial corridors and employment hubs.

H. Support redevelopment efforts that enhance and preserve unique urban features and amenities, including downtown, the riverfront and historic structures.

III. General Guidelines in the Use of Tax Increment Financing

A. The MCDA and the City of Minneapolis will comply with all requirements of the Minnesota Tax Increment Financing Act, as amended. The MCDA will undertake a rigorous analysis to ensure that the proposed project satisfies the "but for" test embodied within the Tax Increment Financing Act.

B. The MCDA and the City of Minneapolis will use tax increment financing only when a clearly identified city development objective is served and only to the degree necessary to accomplish that development objective. The developer shall clearly demonstrate that the project will be able to meet its financial and public purpose commitments.

C. The MCDA and the City of Minneapolis find it preferable that projects requiring tax increment assistance not require additional City resources. If such resources are necessary, a comprehensive explanation of the need, amount and risks associated with providing additional City resources will be provided.

D. The MCDA and the City of Minneapolis will recapture the public assistance to the maximum extent feasible after allowing the developer a reasonable return.

E. Alternatives, such as "pay as you go" financing and reimbursing front-end public redevelopment costs with tax increment revenues, are preferable to bond financing and are to be considered and used when appropriate.

F. Only those public improvements and public redevelopment costs directly associated with or needed to service the proposed development plan or project should be financed through tax increment.

G. The MCDA will analyze each potential new tax increment financing district and recommend whether it should be included in or excluded from the fiscal disparity contribution. The impact of the fiscal disparity election on the City's general tax base will be analyzed using the methodology prescribed by the Minnesota Department of Revenue and will be reported to the City Council in a manner understandable to the general public prior to approval of the proposed use of tax increment financing.

H. As part of the annual budget process, the MCDA will identify tax increment revenues deemed to be excess tax increment and will make related recommendations for decertification of parcels or districts and return of excess tax increment to the taxing jurisdictions, and report on the total value of captured tax capacity expressed in both dollars and as a percentage of total tax capacity.

I. Tax Increment Forecast – In order to provide context for City Council decisions on public investment for development, the MCDA will semi-annually provide a verbal report to the Committee of the Whole on the status of current, pending and known potential projects. If possible these presentations should occur at the first meeting in January and July of each year.

IV. Economic Analysis and Risk Assessment Process

A. Proposed uses of tax increment financing will be subject to rigorous economic analysis and risk assessment. MCDA staff will be responsible for overseeing the analysis and assessment process. Consultants will be used to complete needed analysis and assessment as appropriate. City Finance Department staff will participate in the analysis of proposed uses of tax increment financing.

B. Applications for the use of tax increment financing, tax abatement and Leveraged Investment Fund loans will be accepted by the MCDA throughout the year, and the MCDA Board of Commissioners may authorize staff to conduct appropriate analysis of an application at any point thereafter. However, the City Council will consider and approve or reject initial staff recommendations regarding the funding of such proposals on a quarterly basis on predetermined dates, so that development proposals may be more easily compared and evaluated within the context of all proposals received during a quarterly cycle. The results of the staff analysis and staff recommendations will be presented to the City Council in a standard format to facilitate comparison to one another and to proposals received in earlier quarterly cycles.

The funding of proposals may be considered on other than the predetermined dates when compelling reasons exist. In such cases, the rationale for considering the proposal out-of-cycle must be included in the presentation to the City Council, and the proposal will be presented in the standard format.

C. The analysis and assessment of all proposed uses of tax increment financing will address the following items as part of the standard format for reports to the MCDA Board of Commissioners and the City Council:

1. Describe how the project meets the "but for" test.
2. Identify the development objective(s)/public purpose being served.
3. Evaluate the developer's capacity to undertake the project.
4. Indicate the total development cost of the project.
5. Identify the type and amount of all public assistance required.
6. Specify the costs being paid for with public assistance.
7. Identify any risks or potential negative impacts to the City or MCDA in providing therequired public assistance.
8. List method(s) to minimize and manage such risks and impacts.
9. Determine the appropriate fiscal disparity election and quantify the impact on the City's general tax base.
10. When appropriate, compare the project to other publicly assisted projects.
11. Determine if additional analysis of any type is needed.

D. The results of the economic analysis and risk assessment will be presented to the City Council at the time of the request for approval of the proposed use of tax increment financing. The report will identify any elements of the proposed project that are not in conformance with this Tax Increment Policy.

E. Projects with an anticipated term of increment collection greater than 15 years or projects with tax increment principal in excess of $10 million will be subject to a more extensive analysis, including appropriate market analysis and review by City Finance Department staff.

F. This process for economic analysis and risk assessment does not replace the *Administrative Procedure for Review of Development Proposals by an Interdisciplinary Proposal Review Team* approved by the City Council on February 9, 1996, which remains in effect.

V. Evaluation Criteria

The following items will be taken into consideration in the evaluation of any development proposal requesting tax increment assistance.

A. Need For Public Assistance – In all cases, it is required that the need for public assistance be demonstrated and documented by the developer to the satisfaction of the MCDA and the City Finance Department. All such documentation, including development budgets, cash flow projections, market studies and other financial and market information, must be submitted by the developer in accordance with the MCDA's *Procedure for Analyzing Applications for Tax Increment Financing, Tax Abatement and Leveraged Investment Fund Assistance.* If the request is based on financial gap considerations, the developer will demonstrate the profitability and feasibility of the project (i.e. gross profit, cash flow before taxes, cash-on-cash return, IRR, etc.), both with and without public assistance.

B. Amount of Public Assistance versus Private Investment - All development proposals should seek to maximize the amount of private investment per dollar of public assistance. Public assistance as a percentage of total development costs will be determined for each project (or discrete portion of a project receiving public assistance) and compared to other development projects or subprojects of similar scope and magnitude whenever possible.

C. Term of Public Assistance –The term of the public assistance shall be kept to a minimum. The proposed term of any public assistance shall be fully documented and explained to the MCDA Board of Commissioners and the Minneapolis City Council.

D. Development Benefits and Costs – The direct and indirect benefits of the development proposal shall be determined and quantified to the degree possible. Benefits shall include, but are not limited to, employment benefits (number of jobs retained or created, percentage of jobs held by City residents, wage and salary information, etc.), tax base benefits (estimated market value of new development, new property taxes generated, etc.), housing benefits (number of new rental or ownership units, number of affordable units, etc.), and other benefits relating to transportation, parking, blight remediation, environmental cleanup and historic preservation.

   Costs of the development proposal to both the MCDA and the City shall also be identified to the degree possible. Such costs shall include, but are not limited to, additional required infrastructure, required local contributions by the MCDA or the City, and the impact on the City's General Fund of the fiscal disparity contribution election if tax increment financing is used. The timeframe used for these cost estimates should equal the timeframe of the project finance plan and should separately identify any projected recapture of public assistance.

E. Recapture of Public Assistance – It is the City's goal to recapture all, or a portion, of the public assistance provided to the extent practical. Methods of recapture shall include, but are not limited to, long-term ground leases, subordinated loans, sale and/or refinancing provisions, and equity participation.

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ATTACHMENT B

June 14, 2002

Staff Comments on Proposed Quarterly Approval Cycle For Requests For Tax Increment Financing Assistance

1. Tax increment financing is a development tool made available to municipalities by the State of Minnesota. For qualifying projects, the tool provides a source of funding that is generated by the project itself via property taxes. No funds are provided by the state, county, city or any other governmental entity.

2. For new TIF districts (established since 1990), state statutes require that most of the increment generated by a project must be spent within the TIF district. Only a small portion is allowed for administrative purposes and qualifying affordable housing. This means that there is no sharing of increment among TIF districts/projects, and therefore no need to “allocate” this resource since projects are not competing against each other.

3. The development process is very “time critical”. Developers have to deal with property owners, neighborhood groups, lenders, equity providers, architects, construction contractors, state and local officials, and a host of other parties and issues in order to bring a development to completion. Time schedules are always tight, and a delay in any one of the critical steps of the process can result in a failed project.

4. If the Agency and a developer are simply not ready to approach the Council on one of the proposed quarterly cycle dates, then a delay of up to three months would be necessary. This delay will prove unworkable for many developers, and will be viewed as unnecessary bureaucracy by the development community.

5. Many developers already avoid the City of Minneapolis because of the actual or perceived “red-tape” involved. If a quarterly TIF cycle is implemented, developers that now work in the City and request TIF assistance will likely: 1) request a waiver of the policy so that their project can be heard in a timely manner; and/or 2) consider taking their business elsewhere. A quarterly TIF cycle will certainly not help attract new developers to the City.

6. One of the stated benefits of the proposed quarterly TIF cycle is that projects can be “compared” to each other. Comparison is certainly a worthy endeavor if it leads to a quantifiable benefit. If a project is only being compared to the relatively small number of projects before the Council on that quarterly cycle, it is extremely unlikely there will be any truly comparable projects. If a comparison is being made to all similar projects over some past time period, then such a comparison can be made at any time and does not need to be forced into a quarterly cycle.

7. There are many pros and cons in attempting to compare development projects; however, the reality of the situation is that virtually all projects are unique. Projects will have far more differences than similarities, even among projects of the same type (i.e. rental housing, light industrial, home ownership, etc.). The location of the property, the condition of the site, the developer, design and construction considerations, the state of the economy and building industry, the availability of private financing and equity, the willingness of other governmental entities to participate, and a myriad of other items will make each project significantly different from any that have come before it.

8. In considering a request for TIF assistance, the City should be seeking answers to at least the following questions: 1) What are the benefits and costs of this project to the City and its residents?; 2) Does the project meet the "but for" test (i.e. can it be demonstrated that this project will not go forward without TIF assistance)?; and 3) If the City is willing to provide public assistance, then what is the appropriate amount of such assistance? Comparison will not answer these questions. Discussion, study and analysis of the project under consideration will. If past projects were assisted inappropriately, then comparison will only hinder any efforts to objectively answer these critical questions.

9. Another major concern associated with the implementation of a quarterly TIF cycle is workload and the quality of work. At present, staff attempts to shift projects to different City Council cycles whenever possible, so that there is adequate time to provide quality work in the areas of planning and coordination, financial analysis, negotiation, and legal advice and document preparation. The quality of work will undoubtedly diminish if staff must simultaneously deal with multiple projects that are "rushing" to meet the next quarterly cycle. More errors and mistakes will be made by staff under these conditions and an increase in staff attrition is possible.

10. Projects will become more political in nature. By necessity, developers will attempt to have staff prioritize their projects as high as possible in order to ensure that they can meet the next quarterly TIF cycle. An increase in lobbying efforts at the Council level is also a possibility, especially if there is a perception that projects would somehow be competing against each other.